



Kentucky Department of Workers Claims

Annual Report Fiscal Year 1997-98

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The Kentucky Department of Workers Claims

Mission:

Resourceful administration of Kentucky's workers compensation program and equitable and expedient processing of claims

Performance Objectives:

- Service to constituents should be highly competent and responsive
- Constituents should understand their rights/obligations
- Constituents should promptly receive statutory benefits
- Constituent groups should have an opportunity to influence the development of appropriate services
- DWC should foster beneficial relationships with constituent groups and service industry organizations
- DWC should anticipate changes in the program environment and respond appropriately



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Developed by DWC Division of Information & Research:

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December 15, 1998

Dear Governor Patton:

Pursuant to the requirements of KRS 342.435, I submit herewith the Department of Workers Claims' Annual Report for Fiscal Year 1997 (period beginning July 1, 1997 and ending June 30, 1998).

You will note a continuing decline in the number of disputed workers' compensation claims. This phenomenon follows the current national trend in a sustained climate of "full employment" and relative economic prosperity. Yet, Kentucky's dramatic reduction in the number of disputed claims certainly demonstrates that provisions of House Bill 1 (Extraordinary Session, December 1996) are working as designed to facilitate the delivery of statutory benefits to injured workers without the friction cost of extensive litigation.

Utilizing technology and emphasizing the necessity of offering expert services to the entirety of the Commonwealth's workforce, employees of the Department of Workers Claims have competently fulfilled its mission during this fiscal year. Thanks for your support and keen interest in the workers compensation program.



Very truly yours,

A handwritten signature in dark ink, appearing to read "Walter W. Turner".

Walter W. Turner



KENTUCKY OVERVIEW

Workplace injuries and illnesses continue to be a major concern in Kentucky and nationwide. In Fiscal Year 1997 (July 1, 1997 – June 30, 1998) 47,871 Kentuckians covered by the Workers Compensation Act (KRS Chapter 342) were injured on the job or became ill from job-related exposures. This compares to 47,834 reported injuries in FY96. Eighty-two (82) Kentuckians were killed on the job in FY97 compared to seventy-seven (77) deaths in FY96.

Occupational injuries, illnesses, and deaths exact a devastating toll on workers and their families and also impact business costs and productivity. During FY97 injured workers received awards and entered into agreements calling for present and future payment of income benefits in the sum of \$415,209,705. These workers are also entitled to receive all medical care necessary to treat their injury or disease. The cost borne by the Commonwealth's employers for securing workers compensation liability and paying related administrative expenses during FY97 was \$921 million. **That expenditure is \$160 million less than FY96.**

FY97 Injury Awards & Agreements

07/01/97-06/30/98	# Claims	Total \$	Average \$
Award PT	120	\$55,844,991	\$465,375
Award PP	984	\$28,604,923	\$29,070
AGR PT	4	\$625,129	\$156,282
AGR PP	1316	\$17,527,098	\$13,319
Dismissals	361		
In Abeyance	286		

Based on claim file date.

FY97 Coal Miners Pneumoconiosis Awards & Agreements

07/01/97-06/30/98	# Claims	Total \$	Average \$
Award PT	11	\$6,277,658	\$570,696
Award PP	20	\$1,591,821	\$79,591
AGR PT	-	-	-
AGR PP	28	\$515,332	\$18,405
Award RIB	22	\$779,062	\$35,412
AGR RIB	20	\$176,000	\$8,800
Dismissals	145		
In Abeyance	19		

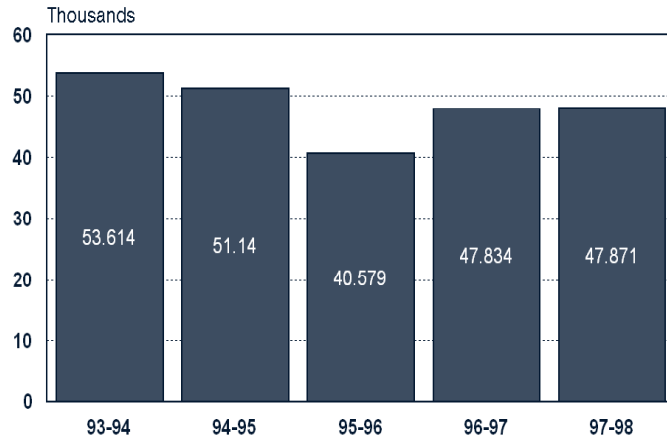
Based on claim file date.

Kentucky overview

DWC's claims data repository is the primary source of information on workplace injuries and illnesses. In FY97, DWC received approximately 48,000 first reports of injury. An injury is "reportable" when an employee misses at least more than one day of work due to the work place incident. Often weeks or months may pass after an injurious incident before the employee loses workdays. Thus, it may take a few weeks to several years for the DWC to receive information identifying an injury as a lost time event. As a result, the number of reported injuries incurred in any given year increases over time.

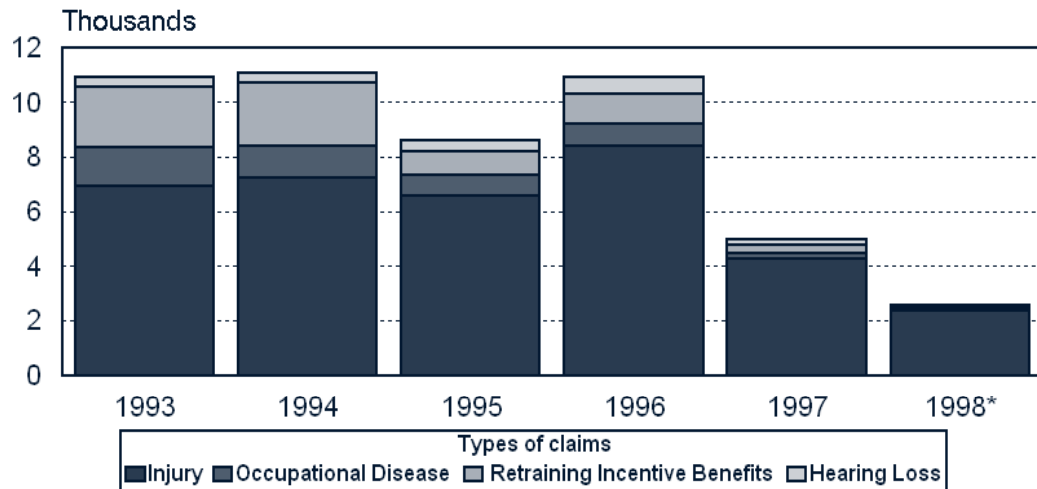
Paid claims are typically divided into two classes, "indemnity" and "medical-only" claims, a distinction used in this report. Indemnity claims are those in which disability income benefits are paid to compensate for lost wages, functional impairment, or death. Most indemnity

First Reports of Injury (By Fiscal Year)



claims involve wage-loss benefits. A worker qualifies for indemnity benefits if the work-related injury or illness causes more than seven lost work days. Indemnity claims typically entail medical costs as well as disability payments. "Medical-only" claims are those where medical services are delivered but the employee does not qualify for disability payments. Most of the data in this report pertains to indemnity claims. Presently there is no requirement that employers or their insurance carriers report "medical-only" claims to the Department.

Indemnity Claims by Type (Calendar Year)



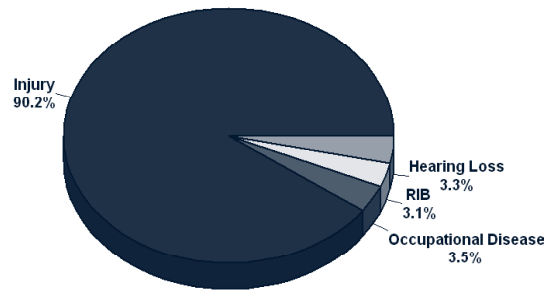
INJURY	6965	7257	6571	8399	4253	2378
O.D.	1391	1130	778	802	245	58
R.I.B.	2197	2346	871	1125	270	50
HEARING LOSS	359	342	408	589	213	81
TOTAL	10912	11075	8628	10915	4981	2567

*Data is based on filings through 7/31/98 (six months).

FY97 Claims by Type

In FY97, 4,741 requests for resolution of disputes were filed with the Department, a decrease from the 10,915 filed in FY96. Of the 4,741 claims filed, only 613 involved injuries occurring during FY97. Proactive, early intervention of agency personnel (workers compensation specialists and ombudsmen) to mediate disputes before disagreements ripen into contested claims and provisions of 1996 House Bill 1 with respect to attorney fees and benefit structure have contributed to the current decline in the number of requests for resolution.

Of the 4,741 contested claims filed in FY97, 4,275 were injury, 164 were occupational disease, 145 were retraining incentive benefits (RIB), and 157 were hearing loss.



Note: Based on report date

Most Common Nature of Injuries (FY97)

NATURE	CLAIMS(#)	CLAIMS(%)	AVG. CLAIM AWARD/SETTLEMENT
Muscle	2,375	50.1	\$47,440
Skin	441	9.3	36,620
Graphic	439	9.3	52,327
Repetitive Motion	351	7.4	49,793
Dust	308	6.5	116,560
Sight, Hearing, Concussion	173	3.6	41,602
Heart	10	0.2	100,452
Other	644	13.6	40,723
Total	4,741	100	

Injured workers filed 2,375 indemnity claims based upon strains (muscle and tissue damage) in FY97. The second and third most common nature of injury producing indemnity claims were skin conditions 441 (9%) and graphic injuries 439 (9%). Using

the U.S. Bureau of Labor Statistics' Standard Industrial Classification System (SIC), industrial divisions with the highest indemnity claim volumes in Kentucky were mining and the food service industry.

Location (Body Part) of Injuries (FY97)

BODY PARTS	CLAIMS (#)	CLAIMS (%)	AVG. CLAIM AWARD
Trunk	1,916	40.4	\$60,275
Upper Extremities	1,003	21.2	30,786
Multiple Body Parts	805	17	50,630
Lower Extremities	613	12.9	42,367
Head	277	5.8	42,793
Neck	127	2.7	45,510
Total	4,741	100	

Kentucky overview

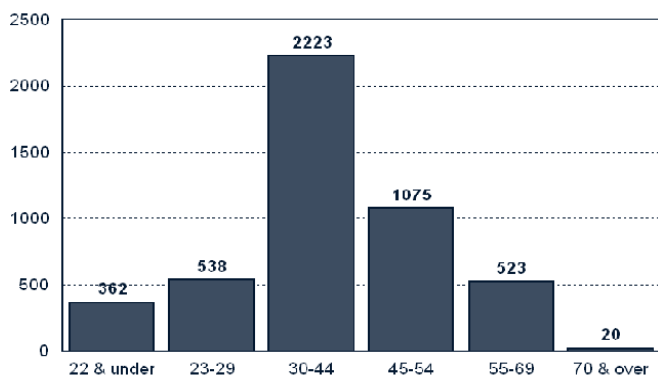
The most common causes of accidents in FY97 were strains and falls, accounting for 61% of all work-related injuries.

More males (3,140) experienced work-related injuries in FY97 than females (1,597). Forty-seven percent of injured workers were between 30 and 44 years of age.

Most Common Causes of Injuries (FY97)

CAUSE	CLAIMS(#)	CLAIMS(%)	AVG. CLAIM AWARD
Strains	2,007	42.3	\$44,597
Fall or Slip	881	18.6	53,761
Struck/Injured By	386	8.1	44,632
Absorption/Injection	308	6.5	112,094
Repetitive Motion	257	5.4	29,950
Motor Vehicle	252	5.3	61,629
Caught In or Between	128	2.7	48,119
Striking/Stepping On	97	2	47,023
Cut, Puncture, or Scrape	46	1	25,139
Heat/Cold Exposure	35	0.7	38,502
Other	344	7.2	40,495
Total	4,741	100	

FY97 Claims by Age Group



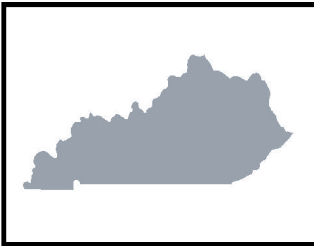
Note: Based on report date

Fatal Occupational Injuries

In FY97, 82 Kentucky employees covered by the Workers' Compensation Act died as the result of a work-related injury or illness. Motor vehicle accidents were the most common cause of death, accounting for 37% of the total. Twenty-two percent of the fatalities were in the mining industry. The second highest number of fatalities occurred in the trucking industry.

A Cooperative Effort

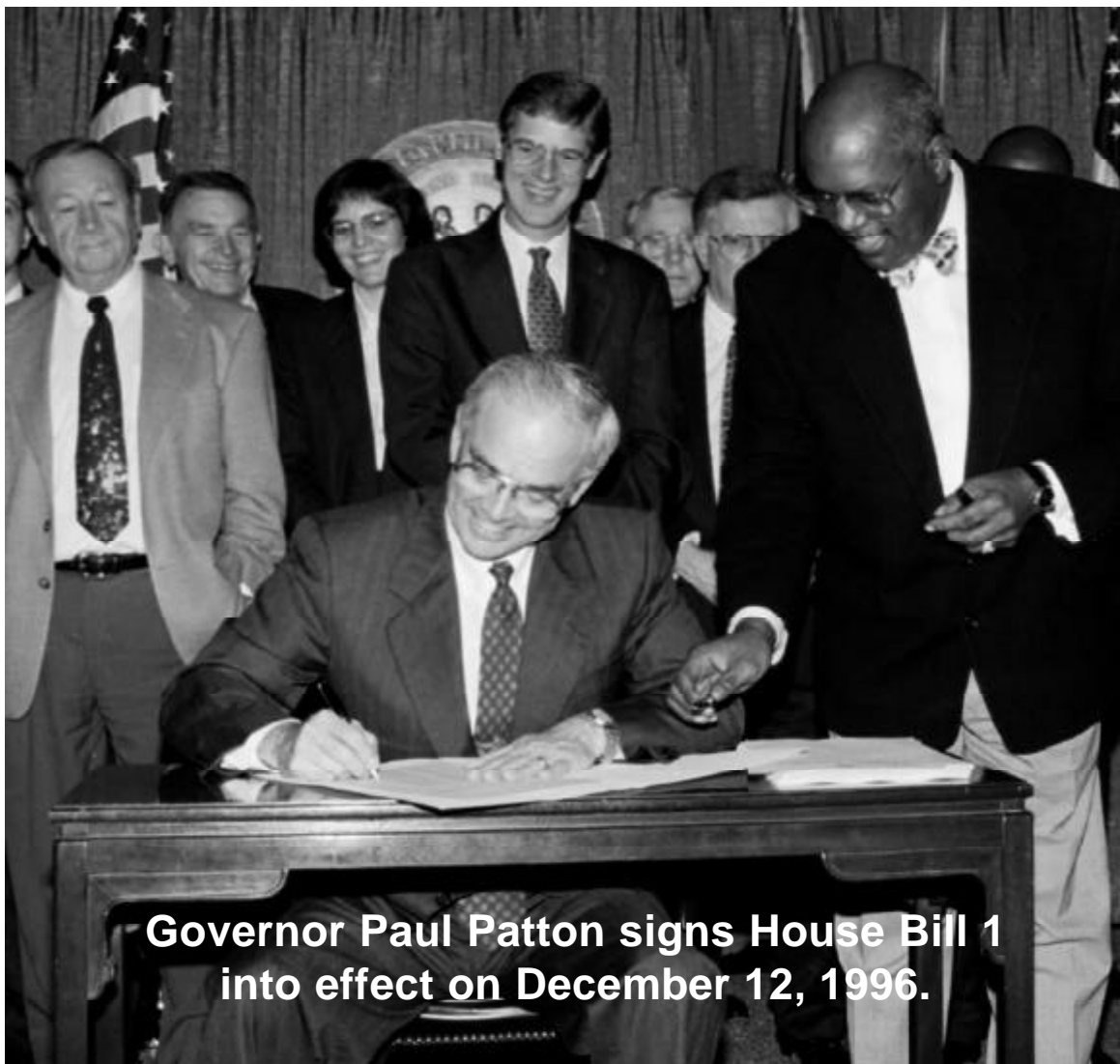
DWC works with the Division of Occupational Safety & Health Compliance (OSH) to ensure that the Department is aware of all work-related fatalities. DWC Specialists initiate contact with responsible carriers to assure notification and facilitate prompt payment of benefits to dependents.



Ten counties generated 44.4% of all indemnity claims in FY97. They are Jefferson (806 claims), Pike (334), Fayette (204), Harlan (152), Floyd (137), Kenton (130), Perry (91), McCracken (88), Daviess (85), and Bell (80).

FY97 COUNTY ACTIVITY (July 1, 1997 - JUNE 30, 1998)

COUNTY	CLAIMS	FROIs	COUNTY	CLAIMS	FROIs	COUNTY	CLAIMS	FROIs
ADAIR	20	139	GRAVES	42	310	MENIFEE	9	82
ALLEN	20	198	GRAYSON	26	261	MERCER	18	335
ANDERSON	24	224	GREEN	16	106	METCALF	4	111
BALLARD	13	92	GREENUP	39	251	MONROE	7	111
BARREN	28	444	HANCOCK	8	96	MONTGOMERY	28	257
BATH	20	140	HARDIN	58	1043	MORGAN	16	100
BELL	80	323	HARLAN	152	441	MUHLENBERG	52	357
BOONE	63	676	HARRISON	11	246	NELSON	35	570
BOURBON	19	242	HART	15	146	NICHOLAS	7	119
BOYD	63	489	HENDERSON	25	491	OHIO	33	241
BOYLE	14	385	HENFRY	16	226	OLDHAM	25	423
BRACKEN	5	86	HICKMAN	2	38	OWEN	10	88
BREATHITT	23	153	HOPKINS	67	718	OWSLEY	1	22
BRECKINRIDGE	5	163	JACKSON	14	117	PENDLETON	9	162
BULLITT	58	621	JEFFERSON	806	8958	PERRY	91	434
BUTLER	9	137	JESSAMINE	35	511	PIKE	334	989
CALDWELL	16	147	JOHNSON	62	233	POWELL	26	188
CALLOWAY	21	328	KENTON	130	1275	PULASKI	52	649
CAMPBELL	39	602	KNOTT	47	147	ROBERTSON	2	21
CARLISLE	1	33	KNOX	39	242	ROCKCASTLE	11	157
CARROLL	14	173	LARUE	10	137	ROWAN	12	170
CARTER	39	287	LAUREL	70	456	RUSSELL	20	152
CASEY	12	172	LAWRENCE	23	121	SCOTT	47	598
CHRISTIAN	55	495	LEE	6	90	SHELBY	23	325
CLARK	38	509	LESLIE	49	173	SIMPSON	17	149
CLAY	35	252	LETCHER	68	297	SPENCER	9	152
CLINTON	6	76	LEWIS	6	119	TAYLOR	41	227
CRITTENDEN	8	114	LINCOLN	25	350	TODD	9	89
CUMBERLAND	7	71	LIVINGSTON	12	104	TRIGG	10	83
DAVIESS	85	1022	LOGAN	28	251	TRIMBLE	4	87
EDMONSON	6	99	LYON	7	61	UNION	13	217
ELLIOTT	8	37	MCCRACKEN	88	554	WARREN	64	952
ESTILL	24	168	MCCREARY	8	129	WASHINGTON	4	139
FAYETTE	204	2874	MCLEAN	10	107	WAYNE	19	195
FLEMING	12	139	MADISON	57	837	WEBSTER	16	221
FLOYD	137	512	MAGOFFIN	33	124	WHITLEY	54	518
FRANKLIN	23	476	MARION	20	217	WOLFE	11	92
FULTON	8	54	MARSHALL	23	288	WOODFORD	18	227
GALLATIN	6	85	MARTIN	55	174	OUT-OF-STATE	28	3228
GARRARD	15	191	MASON	7	191	UNKNOWN		26
GRANT	31	349	MEADE	23	195	TOTAL	4741	47871



**Governor Paul Patton signs House Bill 1
into effect on December 12, 1996.**

Photo by John Perkins, Division of Creative Services

"We worked together, we reasoned, we debated, we compromised in an honest search for what's right. We tried our best to look out for what's best for the future of Kentucky. We will always be receptive to ideas that will improve our workers' compensation program."

- Governor Paul Patton

HISTORICAL PERSPECTIVE

The Commonwealth of Kentucky adopted a Workers' Compensation Act in 1916 under which employees were granted replacement income and medical benefits for disability arising from on-the-job accidents. In exchange, employers were afforded immunity from common law suits. The goal of the workers' compensation program at its inception was to restore in part the income stream of a worker who had lost the ability to work and earn money by reason of a workplace injury. Procedures to separate valid from invalid claims (adjudications) were to be expeditious and simple. Over the past 81 years, Kentucky's workers' compensation program has undergone incremental changes generally marked by expansion of coverage to include additional work-related conditions (i.e., occupational diseases) and increases in the amount of benefits granted workers (i.e., uncapped liability for medical expenses).

Reform

Prior to 1994 the main function of the DWC was to adjudicate benefit entitlement disputes between employers and employees. Administratively, other functions of DWC were restricted to minimal data collection, limited oversight of self-insured employers and employer groups, moderate enforcement of provisions requiring employers to secure insurance, and modest efforts at medical cost containment through fee schedules. Belt-tightening reform occurred during the 1994 General Session of the Kentucky Legislature with the passage of House Bill 928 (HB 928). Through that statute, the means of delivering industrial health care was altered, efforts began to curtail the expansion of benefits, and the administrative and adjudicative arms of the program were strengthened. In addition, HB 928 consolidated most governmental functions relating to workers compensation in the Labor Cabinet and expanded the role of the Commissioner as the chief administrator of the compensation program.

Spurred by Governor Paul E. Patton's efforts, the General Assembly completed the overhaul of the workers' compensation program during the 1996 Extraordinary Session. House Bill 1 (HB 1), commonly known as the Reform Act, was adopted on December 12, 1996. This sweeping measure emphasizes administrative resolution of benefit disputes, rather than adjudicative claims processing. Furthermore, the new law represents a marked shift toward fiscal responsibility in the workers' compensation program and is intended

historical perspective

HISTORICAL PERSPECTIVE

to roll back the 1996 calendar year cost of \$1.1 billion paid by the Commonwealth's employers to sustain the program. At the same time, the General Assembly desired to restore the program to its core purpose of promptly delivering wage replacement benefits and medical services to industrially injured workers in a no-fault, nonadversarial manner.

Objectives of HB 1

The essential first step in implementing this far-reaching, complex law was to firmly visualize what the General Assembly intended to accomplish. As sensed by the Commissioner of DWC, the objectives of HB 1 were:

- Improving access to and expediting delivery of benefits
- Improving carrier and self-insured employer performance
- Reducing system friction and claims resolution cost
- Lowering employer (premium) cost

Charged with the responsibility of implementing HB 1, DWC has revamped some program areas, while developing totally new strategies and delivery vehicles in others.

Photo by John Perkins, Division of Creative Services



**Governor Patton and staff
watch the House Bill 1 vote
on television.**

DWC PROGRAMS & PERFORMANCE

Office of the Commissioner

Under statutory authority, the Commissioner heads DWC, supervises its employees, and carries out all administrative functions of the agency including promulgating regulations related to the workers' compensation program and reporting to the Governor, Secretary of Labor, and Legislature. The Commissioner, Walter W. Turner, is assisted by Deputy Commissioner Willie Lee, who acts as chief personnel and financial officer for DWC.

Office of General Counsel

This office, which consists of five attorneys, one of whom serves as General Counsel, provides legal services to DWC. Recurring activities of this unit include: assuring employer insurance coverage through the preparation of citations and injunctive actions; investigating allegations of improper claims adjustment activities; presentation of unfair claims settlement practice complaints; analyzing open records requests; researching and drafting law analysis reports, regulations, and statutes; and conducting or participating in public hearings.

In FY97, 148 claims of unfair claims settlement practices were deemed to merit investigation. Of these, 132 investigations were closed, and penalties of \$30,750 were assessed at show cause hearings before the Commissioner. Forty-two cases were closed and fines totaling \$13,280 were assessed for failure to file timely first reports of injury.

Office of Administrative Services

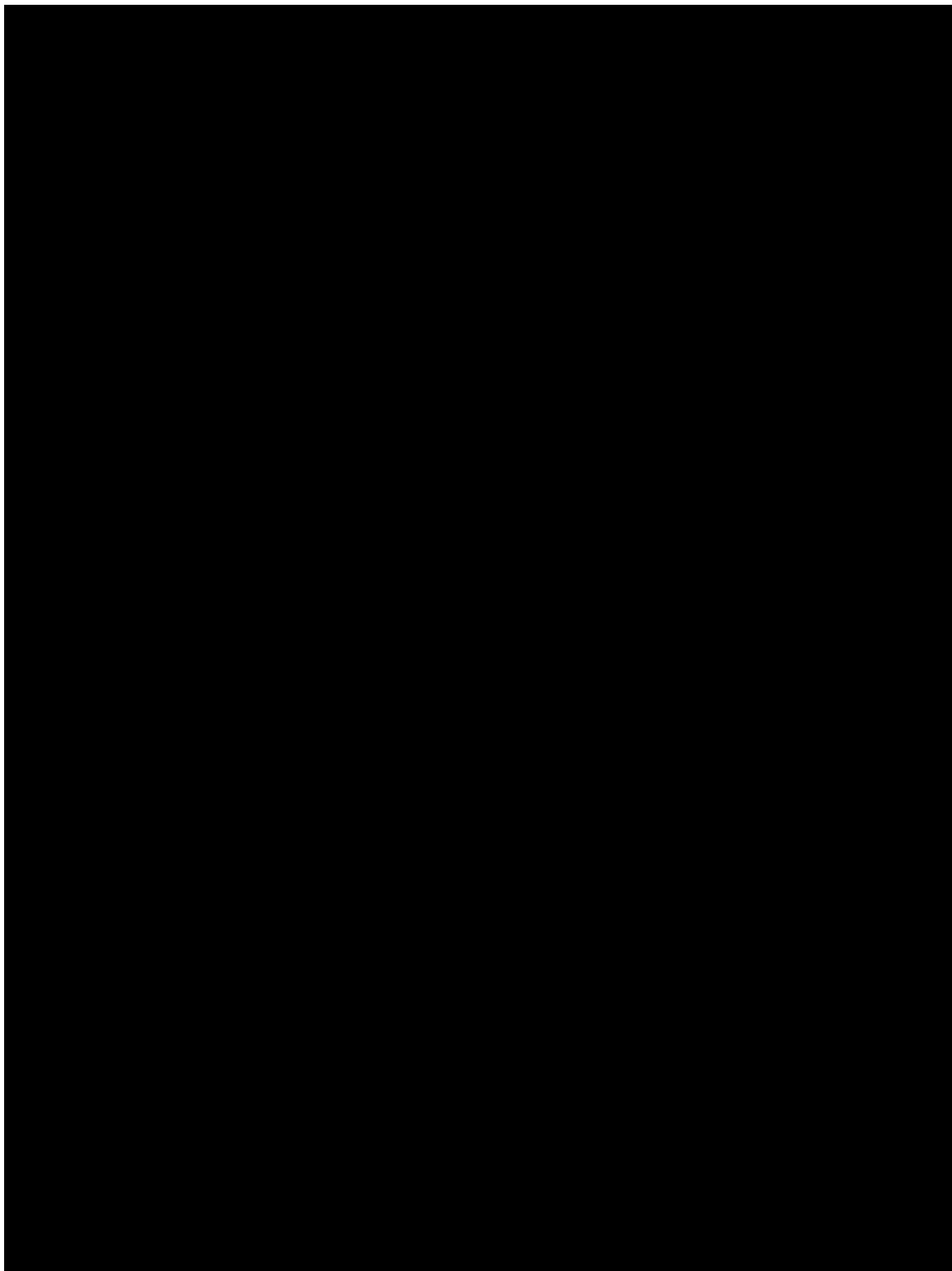
The Office of Administrative Services, under the direct supervision of the Deputy Commissioner, serves as the logistical support unit for the Department. Essential activities include:

- purchasing and distributing supplies and services
- providing maintenance and security for facilities and equipment
- auditing and processing of invoices, requests for reimbursement, and travel expense vouchers
- filling publications orders and disseminating printed materials
- coordinating mail, supply, and equipment pickup and delivery
- coordinating fiscal activities with the Finance and Administration Cabinet
- securing leases of real property for DWC's field personnel
- assisting in preparation of DWC's budget and tracking expenditures

Fiscal Activity (FY97)

	Budgeted	Spent	Balance	% Spent
Personnel	\$11,498,700	\$9,960,614	\$1,529,086	86.7%
Operating	\$3,530,800	\$2,816,105	\$714,695	79.8%
Capital Equipment	\$162,000	\$111,807	\$50,193	69.0%
Total Budget	\$15,182,500	\$12,888,526	\$2,293,974	84.9%

The number of full-time DWC personnel positions at the close of FY97 was 226, 84% of the Department's approved staffing level. The DWC expects to see a substantial budget surplus again at the end of FY98 as the result of reductions in operating costs.





The DWC Workers Compensation Board (*left to right*): Larry Greathouse, Pat Abell (Chair) and Dwight Lovan.

Workers Compensation Board (WCB)

The WCB is composed of three members (one serving as Chair) appointed by the Governor. WCB members are full-time employees of the DWC. Board members are appointed for four-year terms. They hold the qualifications of an appeals court judge (except for residence in a district), and are subject to the same standards of conduct. A decision in which two members concur constitutes a decision of the Board.

Since 1994 WCB has been charged exclusively with the responsibility of deciding appeals from ALJ opinions. During FY97, WCB disposed of 208 claims, and 145 claims were appealed from ALJ decisions to the WCB. At the Board level, 67 claims became final while 78 WCB decisions were appealed to the Court of Appeals or the Kentucky Supreme Court. WCB was in full compliance with the statutory directive that decisions be rendered within 60 days of filing. Under House Bill 1, WCB will be abolished as of July 1, 2000. Thereafter the Kentucky Court of Appeals will directly receive appeals of ALJ decisions.

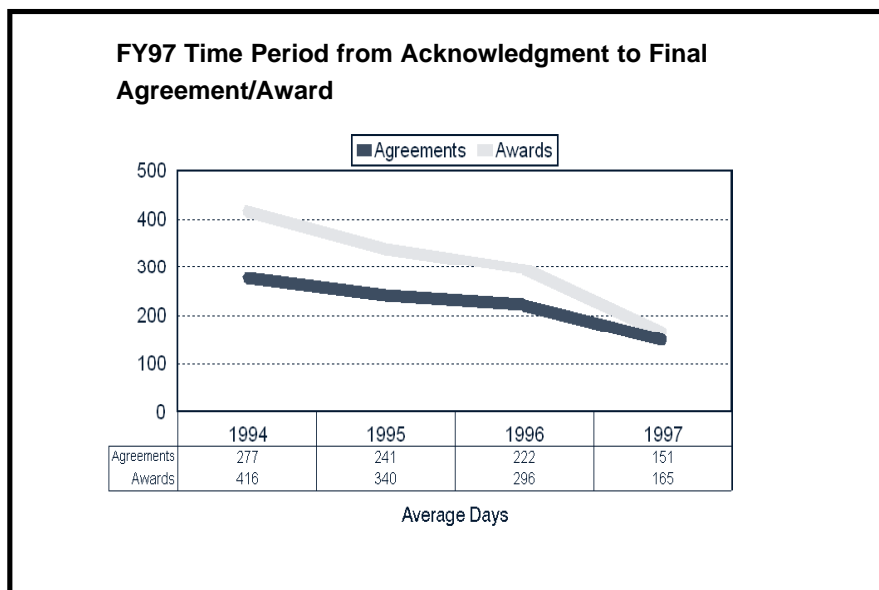


Division of Arbitration

The Division of Arbitration serves as the first level in the claims resolution process. Arbitrators are required to render a decision within 90 days of assignment. However, continuing medical treatment, untimely production of evidence, identifying the need for university evaluation, and delays in obtaining medical reports impact the arbitrators' ability to comply with the 90-day decision requirement.

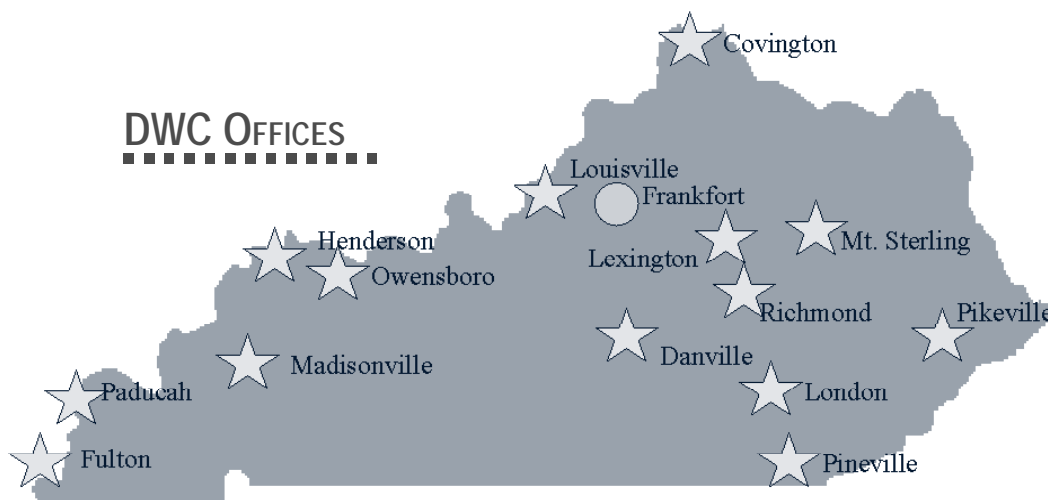
The division consists of eight Arbitrators and support staff. One Arbitrator serves as Chief. Arbitrators are assigned claims in one of six geographical regions of the state for a period of sixty days. Arbitrators work on a regional rotation schedule.

Through June 1998, 4,681 benefit review conferences were held with a settlement ratio of 39.5% of the claims presented.



Adjudication - Administrative Law Judges

ALJs are supervised by a chief who reports directly to the Commissioner. There are currently 14 ALJs and support personnel, located in 11 separate offices. (Under House Bill 1 initial claims determination is vested in arbitrators with ALJ jurisdiction beginning on appeal from an arbitrator decision.) ALJs received 1,810 appeals from claims assigned to arbitrators during the fiscal year as well as 171 appeals from the arbitrator motion docket rulings. ALJs also began to serve in a dual capacity as arbitrators. Hearing sites are maintained in Bowling Green, Covington, Frankfort, Hazard, Ashland, Lexington, London, Louisville, Madisonville, Owensboro, Paducah, Pikeville, and Pineville. The 11 ALJ offices are located in Frankfort, Lexington, Louisville, Danville, Fulton, Henderson, London, Mt. Sterling, Pikeville, Pineville, and Richmond.



Division Of Ombudsmen & Workers' Compensation Specialists Services

Working as a team, the Division of Ombudsmen and Workers' Compensation Specialists, as well as the Medical Services Branch, provide accurate information regarding the workers' compensation program, how it functions, what the rights and duties of employers and employees are, how to access the system, and how to resolve controversies over benefits. Ombudsmen and workers' compensation specialists serve a conciliatory role. Upon request, they intervene in disputes among workers, physicians, carriers, and self-insured employers to facilitate the flow of information necessary for resolution.

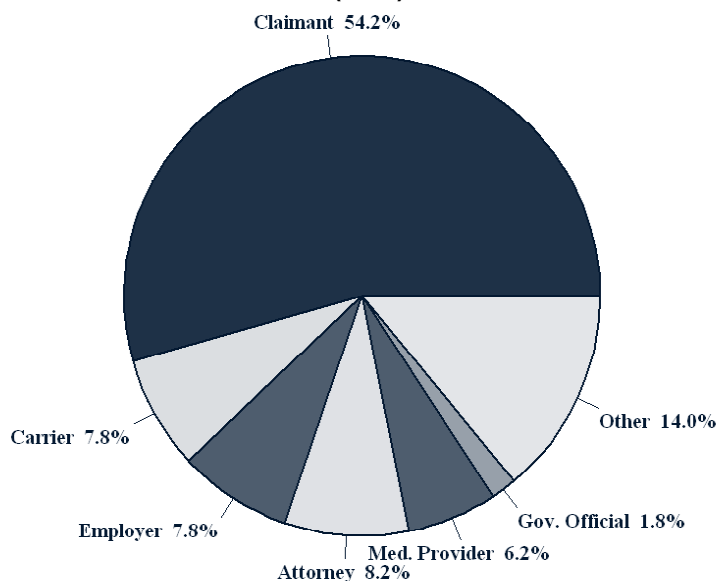
During FY97, eight ombudsmen fielded 13,343 calls for assistance and information (an average of 1,111 calls per month), and conducted three face-to-face mediation conferences at the request of the parties.

The DWC provides specialist services in Frankfort, Louisville, Pikeville, Madisonville, and Paducah. DWC Specialists assist workers in obtaining medical reports and other materials pertinent to a claim for benefits and prepare documents necessary for a claim application. During FY97, eight specialists received 14,216 requests for assistance. Questions or issues ranged from re-

FIELD OFFICES

In FY97 DWC established field offices for benefit review conferences & constituent assistance. DWC Specialists are now located in Lexington, Louisville, Pikeville, Madisonville, Frankfort and Paducah. Also, an Ombudsman is now located in the Paducah office. In addition to the central office in Frankfort, this brings the number of sites to 15 for benefit review conferences, enforcement and constituent services, and ALJ offices.

Calls for Assistance (1997)



quests for forms to more complex issues involving applications of the medical fee schedule.

Another service that DWC specialists offer is mediation intervention. Of the 2,273 requests for mediation intervention, 66% of the conflicts were successfully resolved at fiscal year end. DWC specialists also expedite rehabilitation evaluations precedent to vocational training.

Kentucky's managed care structure attempts to promote cost-effective, quality medical treatment and assurance of reasonable choice of providers. Administrators of managed care systems must file an application with DWC for approval of a comprehensive plan of operation. During FY97, approximately 43% of the total workforce was covered under managed care plan arrangements. DWC has certified 37 managed care plans, with 9 plans affording coverage in all of the Commonwealth's 120 counties. Not all approved plans are presently operational.

University Medical Evaluations

As mandated by HB1, the DWC has contracted with the University of Kentucky and the University of Louisville medical schools to perform evaluations of employees maintaining workers' compensation claims. Referral is mandatory for occupational disease and hearing loss claims and is optional in traumatic injury claims. During FY97 medical schedulers processed 750 claims, scheduled 735 evaluations and the medical schools performed 704 evaluations.

FY97 Medical Evaluation Referrals

Type of Evaluation	Univ. of Kentucky	Univ. of Louisville
RIB	91	84
BL	85	71
Hearing Loss	89	89
Silicosis	2	6
Paint Fumes	3	3
Injury (all)	104	110
Contagious dis.	0	1
Dermatitis	0	4
Asbestosis	4	4
TOTAL	378	372



A Cooperative Effort

Kentucky's Workers' Compensation Law provides retraining and job placement benefits for employees who sustain compensable injuries which prevent their return to work. DWC seeks to facilitate successful vocational rehabilitation efforts through early intervention. In a cooperative effort between the Department of Workers Claims (Labor Cabinet) and the Department for Technical Education (Workforce Development Cabinet), 14 Technical Education Career Assessment Centers located throughout the state are now providing assessment services including standardized evaluation of interests, aptitudes and achievement levels for injured workers that will facilitate appropriate vocational rehabilitation. It is expected the new evaluation procedures will provide quality recommendations.

programs & performance

PROGRAMS & PERFORMANCE

Division of Information and Research

This division is responsible for statistical data collection and dissemination of information relative to claims and open records requests; assembly and retention of all permanent files and documents; processing electronic data; and performing critical research. The Division of Information and Research is also continuously developing the DWC's Wide Area Network that currently consists of 274 PCs connected to 8 file servers. During FY97, Division personnel established a Local Area Network in the Louisville office and connected the Louisville office file server to the DWC's Wide Area Network. Among other benefits, these additions make possible information sharing between the Louisville and Frankfort offices, E-mail service, and the transmission of documents through the AS/400 Imaging system. Applying information system technology, staff in the Louisville office can retrieve, process and distribute information more efficiently and effectively. Preparations have been made for installation of computer networks in 12 other DWC field offices.



High Points in EDI Reporting

- U Self-Insurance reporting via Internet (1/1/98)
- U EDI filing of proof of coverage (1/1/98)
- U EDI filing of subsequent reports (1/1/97)
- U EDI filing of first reports (1/1/96)

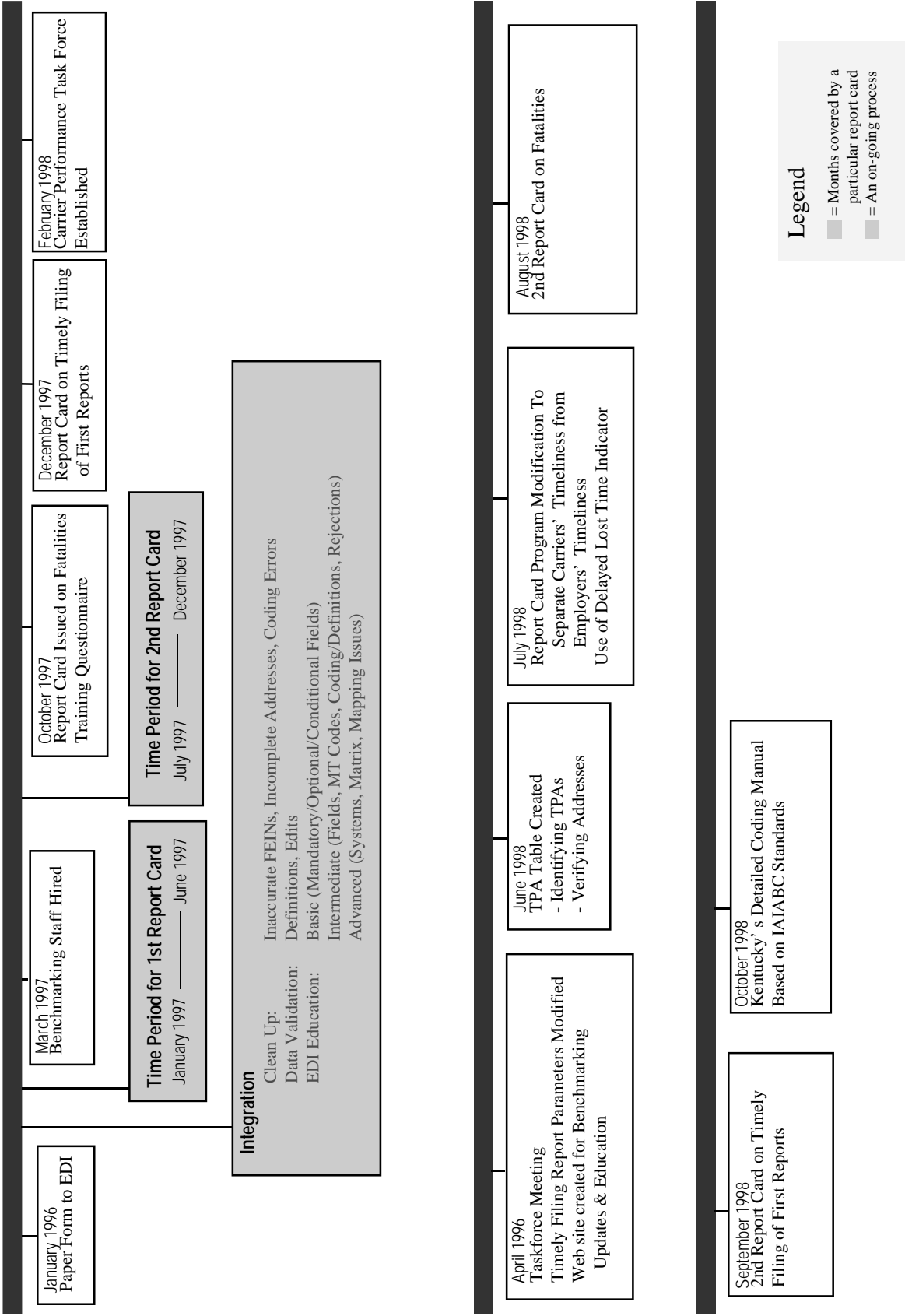
Report Cards on Carrier Performance. Kentucky is the first state with an active benchmarking program which issues report cards on carrier performance. DWC benchmarking staff have identified 11 key indicators for reviewing carrier performance based on statutory requirements. These indicators are:

- Timely Filing of Fatalities (KRS 342.038)
- Timely Filing of First Reports (KRS 342.038)
- Timely Payment of Income Benefits (KRS 342.040)
- Proper TTD Payment Amounts (KRS 342.730)
- Proper Filing of Subsequent Reports (KRS 342.038(5))
- Prompt Payment of Travel Expenses Related to Medical Evaluations (KRS 342.315)
- Prompt Payment of Medical Expenses (KRS 342.020)
- Timely Notice of Coverage (WCI1) (KRS 342.340)
- Prompt Notification of Cancellation of Coverage (WCI2) (KRS 342.340)
- Incidence of Unfair Claims Practice Allegations (KRS 342.267)
- Utilization Review & Medical Bill (KRS 342.035)

In October 1997, the Department issued a report card to 39 carriers, self-insureds and third party administrators pertaining to timely electronic filing of fatality reports from January 1 - June 30, 1997. The report cards revealed only 35% compliance with reporting standards. In December 1997, the Department issued a report card for the same time frame covering timeliness in electronically filing First Reports of Injury. The report cards revealed that of the 431 carriers, self-insureds and third party administrators filing First Reports during that period, only 38% were in absolute statutory compliance.

The DWC report card program is based on data received through electronic data interchange (EDI). Carriers have provided DWC with valuable feedback for enhancing the report card process and the program continues to change and improve. Through report cards, both the Department and insurers have become more aware of the importance of valid data transmission. Carriers are encouraged to take steps necessary to ensure that data is not only submitted timely, but also accurately and completely. Benchmarking has proven to be both a tool for monitoring carrier performance, as well as a medium for improving services to injured workers of Kentucky.

Benchmarking Program Timeline



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Carrier Performance Task Force. This year the Commissioner established a task force of insurance carriers and third-party administrators. The five-member task force provides valuable insight into developing a report card process that is fair and accurate.

Electronic Data Interchange Reporting for Medical Payments. Medical payment reporting standards are currently in the final stages of development by the International Association of Industrial Accident Boards and Commissions (IAIABC). Kentucky will be the first state to mandate EDI reporting for medical payments when this stage is completed.

Division of Security and Compliance

The Division of Security and Compliance has three branches: Coverage, Self-Insurance, and Enforcement. The Division's primary responsibility is to ensure that non-exempt Kentucky employers maintain workers' compensation insurance coverage.

The Coverage Branch maintains records documenting insurance coverage for Kentucky employers. Approximately 250 insurance companies, including the competitive state fund, Kentucky Employers Mutual Insurance Company (KEMI), insure the Commonwealth's employers.

FY97 Coverage Activity

	Number of Filings	
	FY96	FY97
New Coverage (Paper)	11,546	7,555
Coal	99	52
Non-Coal	11,447	7,503
File Updates (Paper)	53,604	26,983
Coal	3,200	1,213
Non-Coal	50,404	25,770
Processed Transactions (EDI)		40,406
Coal		305
Non-Coal		38,746
Rejected Transactions (EDI)		34,796
Coal		400
Non-Coal		31,916
Total	65,150	109,740



Another Electronic Milestone

DWC began accepting filings of coverage transactions through electronic data interchange (EDI) as of January 1, 1998. The Coverage Branch receives data directly from the National Council on Compensation Insurance (NCCI). The transition is complete, and electronic filing is now the exclusive mode of reporting proof of coverage.

FY97 ADVANCES

Self-Insurance Advisory Council. The Department established a Self-Insurance Advisory Council to provide members of the regulated industry an opportunity for input into self-insurance issues. The council consists of representatives from all three guaranty funds and other associated agencies, both public and governmental.

Interest Evaluation Tool for the SERF Fund (South East Coal Restoration Fund). During FY97, action was taken to maximize the financial resources available to compensate the injured workers of bankrupt South East Coal Company. At the request of Security and Compliance personnel, the South East Restoration Fund (SERF) was divided into long-term and short-term investments to extend the period of payments to claimants.

Researching new method to establish surety requirement. Staff is reviewing the components needed for payment of compensation liabilities for an insolvent employer and establishing guidelines to ensure the surety posted is adequate.

The Self-Insurance Branch audits group and individual self-insured employers and processes new and renewal applications for self-insurers. The Division Director, a CPA, is completing an evaluation of DWC's self-insurance oversight activities. Research has identified appropriate tools to advance recognition of self-insured employers whose financial condition does not warrant the privilege of self-insurance, including Dun & Bradstreet business database, periodicals such as the *Wall Street Journal*, and various Internet resources.

HB1 established three guaranty associations, the Kentucky Individual Self-Insured Guaranty Fund, The Kentucky Group Self-

Insured Guaranty Fund, and the Kentucky Coal Employers Self-Insurance Guaranty Fund. The purpose of these funds is to protect workers and their dependents in the event of insolvency of a self-insured. During FY97 there have been no insolvencies of self-insureds to impact any of the guaranty funds. The DWC continues to initiate audits of self-insured groups while monitoring those groups operating pursuant to Agreed Orders resulting from previous examinations.

As of June 30, 1998, 224 Kentucky companies and municipalities are certified to be self-insured.

Enforcement Activity by Fiscal Year

	FY95	FY96	FY97
INVESTIGATIONS	10,248	8,215	9,042
CITATIONS FOR NON COMPLIANCE	246	130	415
FINES COLLECTED	\$216,506.16	\$130,063.86	\$260,225.04



The Self-Insurance Branch has implemented a new filing procedure for premium loss calculations and the Surety Loss Experience report. Instead of accepting a handwritten form submitted through the postal service, DWC now receives these reports in the form of electronic spreadsheets via e-mail. Self-insurers can obtain electronic forms to complete from the Department's Web site. The establishment of this filing procedure represents a dramatic improvement in the regulatory process. In fact, Kentucky is the only state that has instituted electronic filing of this information. Benefits derived from this mode of delivery include expeditious transmission of data from the self-insured to the agency and more accurate control of the format in which data is received. Furthermore, costs to the agency are reduced by a decrease in physical space necessary for filing, lower postage costs, and fewer form requests.

The Department's Enforcement Branch is charged with ensuring that employers subject to the Workers' Compensation Act provide coverage for their employees. Eight field investigators conducted 6,164 routine investigations to determine the status of Kentucky employers. FY97 showed increases in numbers of investigations, citations for noncompliance and dollars collected in fines.

Division of Claims Processing

The Division of Claims Processing receives and processes applications for resolution of injury, occupational disease, hearing loss, and RIB claims; assigns claims to arbitrators and ALJs; processes agreements as to compensation, attorney fee motions, and employee disability status reports; notifies disabled workers of statutory limitations for filing a claim; processes medical fee dispute requests and chiropractor peer review filings; maintains and updates the physicians' medical qualifications index; prepares weekly Frankfort motion dockets; processes orders; compiles arbitrator and ALJ decisions; and maintains the database for all the above filings.

The Appeals Branch is responsible for processing all documents and records upon claims appealed from ALJ decisions to the Workers Compensation Board (WCB), the Kentucky Court of Appeals, and the Supreme Court. During FY97, the number of claims appealed to the Workers Compensation Board was 907; 314 to the Court of Appeals; and 104 claims were appealed to the Supreme Court.

FY97 REGULATIONS UPDATE

PROCEDURE FOR ADJUSTMENT OF CLAIMS (803.KAR 25:010)

This regulation was amended to reflect the statutory changes in the workers' compensation claims process made in the December 1996 Extraordinary Legislative Session. Amendments included revamping the procedures for the claims process to include arbitration, updated claim forms, and 6% present value table for lump sum settlements. The amendments became effective on July 17, 1997. The Department later identified several unaddressed issues and areas that needed clarification. Therefore, the regulation was amended again. The second round of amendments addressed evidentiary issues, interlocutory decisions, and the appeals process. These amendments became effective on July 13, 1998.

RESOLUTION OF FEE DISPUTE (803 KAR 25:012)

This regulation was amended to conform to the changes in KRS Chapter 342 by the December 1996 Extraordinary Legislative Session. Amendments dealt with the new procedures involving arbitrators, and became effective December 12, 1997.

PROCEDURE IN WORKERS' COMPENSATION ENFORCEMENT HEARINGS (803 KAR 25:015)

Commissioner Turner perceived a need for an informal conference prior to issuing citations for violation of the Workers' Compensation Act. This regulation was amended to provide that the Commissioner may issue a show cause order setting an informal hearing to determine if facts warrant the issuance of a citation. The regulation was also amended to conform with KRS 342.990(5) so that an administrative law judge's order relative to the Commissioner's citations is final and appealable to the Franklin Circuit Court. The amendments were effective March 16, 1998.

regulations update

SELECTION OF PHYSICIANS AND TREATMENT PLANS (803 KAR 25:096)

The regulation was amended to prevent medical providers from billing injured employees for services which had been denied by the payment obligor because of failure to timely submit bills. Another amendment allows insurance carriers to suspend benefits if an injured employee unreasonably fails to provide a Form 113 to designate a principal physician. Other amendments bring the regulation into conformity with statutory changes made in the December 1996 Extraordinary Legislative Session. The amendments were effective on June 15, 1998.

PROVISION OF WORKERS' COMPENSATION REHABILITATION SERVICES (803 KAR 25:101)

Amendments were made to this regulation to comply with the statutory changes made in the December 1996 Extraordinary Legislative Session. The Department also added assessment centers operated by the Department of Technical Education to a directory of vocational evaluation facilities. These assessment centers provide evaluations at lower costs to employers and are generally convenient to employers. The Department also amended the regulation eliminating the Registry of Certified Evaluators. These assessment facilities hire only certified evaluators, eliminating the need to check with the Department for that information. The Department also amended the regulation for an administrative law judge or arbitrator to refer injured employees to a Department of Workers Claims' employee for the implementation of rehabilitation services. Prior to this amendment, referrals could only be made to rehabilitation counselors. Now referrals are made to the workers' compensation specialists. These amendments were effective June 15, 1998.



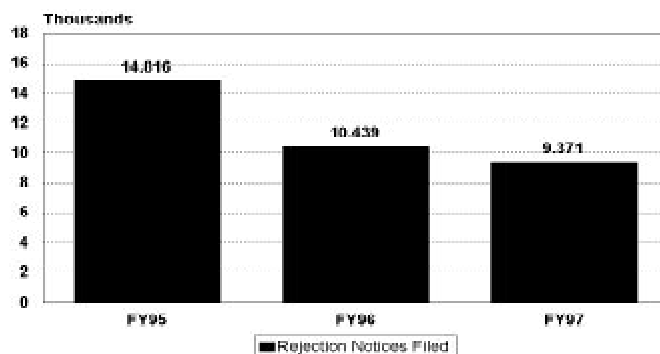
TRAINING OR EDUCATION PROGRAMS ELIGIBLE FOR RETRAINING INCENTIVE BENEFITS (803 KAR 25:120)

This regulation was amended to conform to the statutory changes made in the December 1996 Extraordinary Legislative Session. One amendment to the regulation allows qualified programs that had been in existence less than two years to be approved as training programs. The Department also deleted the requirement that a training program had to be at least four months in duration because there are successful programs which offer training in a shorter time frame. There was also a deletion of the requirement that a program prepare students for employment in an occupation other than severance or processing of coal so as to eliminate the prohibition of the individual from working in another capacity for a coal processing company. The amendments intend to make it easier for programs to be approved by the Department so as to offer a greater selection of retraining and civil programs and to provide more opportunities for employees to be retrained. The amendments were effective March 16, 1998.

NOTICE OF REJECTION OF WORKERS' COMPENSATION ACT (803 KAR 25:130)

This new regulation sets forth requirements with regard to an employee rejecting the Workers' Compensation Act. Duties are set forth for employers as well as employees who choose to reject the Act. The regulation incorporates and updates the Form 4 (rejection notice) which the Department had used for some time but was not prescribed in a regulation. This regulation was effective December 15, 1997.

Rejection Notices by Fiscal Year



FILING OF INSURANCE COVERAGE AND NOTICE OF POLICY CHANGE OR TERMINATION (803 KAR 25:175)

The Department promulgated this new regulation to require all insurance carriers, including self-insured groups, to file employers' proof of insurance to the Department electronically through NCCI. The regulation was designed to obtain uniform proof of coverage information consistently and timely. The regulation was adopted December 15, 1997. Since the adoption of this regulation, the Department has developed more efficient and cost effective ways for carriers to electronically file proof of coverage (and policy change or termination information) with the Department. Therefore, the Department currently has an emergency regulation in effect to provide an alternative internet-based means of filing proof of coverage.

UTILIZATION REVIEW AND MEDICAL BILL AUDIT (803 KAR 25:190)

This regulation had significant amendments to improve the efficiency and effectiveness of utilization reviews and medical bill audits. The Department amended the term “pre-authorization” to clarify that the carrier is assuring payment of a medical bill once it is pre-authorized. Various time periods were shortened by the Department to assure a more efficient utilization review and provide quicker medical services to injured employees. The Department also amended the regulation so that at the reconsideration level a utilization review of chiropractic care must be conducted by a chiropractor qualified pursuant to KRS 312.200(3) and 201 KAR 21:095. The amendments were effective June 15, 1998.

EMPLOYER’S NOTICE OF WORKERS’ COMPENSATION INSURANCE (803 KAR 25:200)

Pursuant to KRS 342.610(6) passed in the December 1996 Extraordinary Legislative Session, all employers are required to post a notice to employees regarding workers’ compensation insurance. The Department is required by statute to promulgate a regulation setting forth the contents and format of the notice. The regulation was effective July 17, 1997.



GUARANTY FUNDS (803 KAR 25:220)

The Department promulgated this regulation as required by KRS 342.906 which was adopted in the December 1996 Extraordinary Legislative Session. The regulation establishes a registration process for employee leasing companies. The regulation was effective July 17, 1997.

LESSORS OF EMPLOYEES (803 KAR 25:230)

This regulation was promulgated as required by KRS 342.615 which was passed in the December 1996 Extraordinary Legislative Session. The regulation establishes a registration process for employee leasing companies. The regulation was effective July 17, 1997.

AFFIDAVIT OF EXEMPTION FROM THE KENTUCKY WORKERS' COMPENSATION ACT (803 KAR 25:210)

During the December 1996 Extraordinary Legislative Session, the Legislature amended KRS 342.610(5) to require local building officials to receive proof of workers' compensation insurance before issuing a building permit. However, those persons who are exempt from providing workers' compensation insurance pursuant to KRS 342.650(2) can file an affidavit verifying their exemption. The Department was required to promulgate this regulation to prescribe a form for that affidavit. The regulation was effective July 17, 1997.



regulations update

RESOURCES & MATERIALS DEVELOPED IN FY97



Kentucky Detailed Code Manual. The Department developed this tool to aid in EDI (electronic data interchange) reporting. The *Manual* includes nature, cause and body part codes and their definitions.

Utilization Review & Medical Bill Audit. This report addresses issues and deficiencies discovered in quality assessment audits. The report also makes recommendations for correcting deficiencies and monitoring the utilization review program.



The DWC Web Page. The web site provides individuals with the opportunity to review, download and print current workers' compensation materials. Forms, guidelines, regulations, and information briefs are readily available and are formatted to be printed on standard laser printers. DWC's main office and field staff also use the web site to print materials for distribution to injured workers or employers without Internet access who need workers' compensation information. Soon staff will be able to fax materials directly from their workstations to constituents' homes or office fax machines. DWC encourages use of its web site at:

www.state.ky.us/agencies/labor/wrkclaim.htm



X-Ray Procedures Handout. The Department developed this handout in response to the numerous questions asked by constituents in making arrangements through the medical scheduling program. The handout also serves to expedite arrangements for x-rays in time for hearings.

OTHER IN-HOUSE ACTIONS TO IMPROVE PERFORMANCE



Additional toll-free phone lines were set up in three of the Department's 14 field offices. These lines are in addition to the main office line that was created by statute in 1994.

Enforcement Officer Training. Enforcement officers participated in mock trials in October 1997. The exercise provided realistic and occasionally hostile settings in which the officers must present testimony and defend their reports.

resources & materials

NEW RESOURCES & MATERIALS

EDI Training Needs Questionnaire. In December 1997, the Benchmarking staff distributed a training needs questionnaire to insurance carriers, self-insureds and third party administrators. Staff will use the feedback to develop materials and seminars.

Financial Audit Program. The Department subscribed to an on-line service from Dun & Bradstreet to use in evaluating the financial soundness of self-insured employers.

Watch List Database. The Department now maintains a database of information on self-insureds assigned to the Department's "watch list" as well as certain other self-insureds for which staff feel it essential to maintain knowledge of their current status. Information consists of articles from the *Wall Street Journal*, information obtained from the Internet, Dun & Bradstreet reports, etc.

Simulated Premium. The Department has developed a program that will allow self-insured employers to file their own simulated premium calculation.

Expanded Office Network to Field Offices. The Department recognized the need for ALJs and Specialists to have ready access to the claims database. In FY97 the Department linked the two largest field offices, Lexington and Louisville, to the DWC main office's network. The next phase will link the remaining field offices.

Specialists' Role in Scheduling Rehabilitation Evaluations. A new initiative within the Department is designed to expedite the scheduling of rehabilitation evaluations. Upon request for rehabilitation, or an Order from an Arbitrator or ALJ, a Workers Compensation Specialist makes immediate contact with the claimant and employer or carrier in order to confirm interest and secure authorization for payment. The process has resulted in much faster scheduling, and intercepts those claims in which evaluations should be postponed, due to appeal or further medical treatment.

During FY97 DWC spent 2,730 hours training staff and 300 hours in preparing and making presentations at various workers' compensation sessions and workshops.



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DWC Web site

www.state.ky.us/agencies/labor/wrkclaim.htm

* as of publication

key personnel

KEY PERSONNEL

